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for refund is made. In no event shall charges be refunded when the application for refund is not made until after the emergency mortgage relief loan or advance of credit is paid in full.

§ 2700.320 Servicing.

Servicing functions for the emergency mortgage relief loan or advance of credit during the period that the emergency loan or advance is insured shall be performed by the lender or the servicing institution acting for the lender. The lender is responsible for proper servicing, even though the actual servicing is not performed by the lender.

§ 2700.325 Termination of mortgage insurance.

The mortgage insurance coverage and the insured lender's obligation to remit mortgage insurance premiums to HUD with respect to an emergency mortgage relief loan or advance of credit shall be terminated upon whichever of the following first occurs:

(a) The emergency mortgage relief loan or advance of credit is paid in full;

(b) The lender acquires the mortgaged property securing the emergency mortgage relief loan or advance of credit and notifies HUD that no claim for insurance benefits has been or will be made;

(c) The homeowner and the lender jointly request termination; or

(d) The lender files an insurance claim pursuant to § 2700.335.

§ 2700.330 Default.

(a) If the homeowner fails to make a scheduled payment or perform any other obligation required for the type of emergency assistance provided under this part, the homeowner shall be deemed to be in default.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the mortgage securing the emergency mortgage relief loan or advance of credit, if the delinquency remains uncorrected;

(2) The date the property securing the emergency mortgage relief loan or advance of credit is sold before full repayment of the emergency loan or advance of credit; and

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(3) The date a lien superior to that securing the emergency mortgage relief loan or advance of credit is foreclosed.

(c) If, after default and prior to the foreclosure of the mortgage securing the emergency mortgage relief loan or advance of credit, the homeowner cures the default, the emergency loan or advance of credit shall be treated as if a default had not occurred, provided the homeowner pays the lender for any expenses the lender incurred in connection with the lender's attempt to collect on the emergency mortgage relief loan or advance of credit.

§ 2700.335 Claims.

(a) Claims for mortgage insurance for reimbursement for loss on an emergency mortgage relief loan or advance of credit shall be made in such form and provide such information as specified by HUD.

(b) Claims may be filed upon the homeowner's default on the emergency mortgage relief loan or advance of credit.

(c) When the homeowner defaults on the emergency mortgage relief loan or advance of credit, the lender may elect to:

(1) Proceed against the mortgage securing the emergency mortgage relief loan or advance of credit or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or

(2) Make a claim under its mortgage insurance contract without proceeding against the security or the note.

(d) Except as may be otherwise specified by HUD, mortgage insurance claims shall be filed on the last working day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency relief loan or advance of credit, in which case the filing shall be no later than one year after the date of default, or such other time period as approved by HUD. If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan is a person in "military service", as such term is defined in the Servicemembers Civil Relief Act

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of 2003 (Pub. L. 108-189, approved December 19, 2003) (formerly known as Soldier's and Sailor's Civil Relief Act of 1940) (50 U.S.C. app. 501-594), the lender shall refrain from instituting foreclosure proceedings during the period in which the servicemember is in military service and 3 months thereafter and that period shall be excluded in computing the time within which a claim for insurance benefits under this subpart may be made.

(e) An insured lender will be reimbursed for its losses on emergency mortgage relief loans and advances of credit made in accordance with this part, in an amount equal to 90 percent of the sum of the following:

(1) The unpaid principal amount of the emergency mortgage relief loan or advance of credit less the amount recovered;

(2) The uncollected interest earned up to the date of claim;

(3) Uncollected court costs, including fees paid for issuing, serving, and filing summonses;

(4) Attorney's fees actually paid, not exceeding the lesser of:

(i) 25 percent of the amount collected by the attorney on the defaulted note, or

(ii) 15 percent of the balance due on the note; and

(5) Expenses actually incurred in recording assignments of mortgages to the United States of America, up to such amount as specified by HUD.

(f) The note and any mortgage held or judgment taken by the claimant must be assigned in its entirety and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall be likewise assigned to the United States of America. The assignment shall be in the form approved by HUD.

§ 2700.340 Payment of insurance benefits.

Upon receipt of a claim for insurance benefits that meets the requirements of § 2700.335 and the other provisions of this part, HUD shall make a payment of insurance benefits in cash to the claimant in an amount equal to the amount specified in § 2700.335(e).

§ 2700.345 Administrative reports and examinations.

At any time, HUD may call upon an insured lender for such reports as are deemed to be necessary in connection with the regulations of this part and may inspect the books or accounts of the lender as they pertain to the emergency mortgage relief loans or advances of credit that are insured pursuant to this subpart.

§ 2700.350 Sale, assignment, and pledge of insured loan.

(a) No lender may sell or otherwise dispose of any insured emergency mortgage relief loan or advance of credit except pursuant to this section.

(b) An insured emergency mortgage relief loan or advance of credit may be sold to a lending institution eligible under § 2700.105. Upon such sale, both the seller and the buyer shall notify HUD within 30 days of the date of sale.

(c) When an insured emergency mortgage relief loan or advance of credit is sold to another lending institution eligible under § 2700.105, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance under this part, and the seller shall be released from its obligations under the contract of insurance.

(d) An assignment, pledge, or transfer of an insured emergency mortgage relief loan or advance of credit not constituting an actual transfer of legal title may be made by the lender to another eligible lending institution, subject to the following conditions:

(1) The assignor, pledgor, or transferor shall remain the lender for purposes of the contract of insurance under this part.

(2) HUD shall have no obligation to recognize or deal with any party other than that lender with respect to the rights, benefits, and obligations of the lender under the contract of insurance. Notice to or approval of HUD is not required in connection with assignments, pledges, or transfers pursuant to this subpart.